

## **EXHIBIT 2**

John G. McJunkin, Esquire  
J. David Folds, Esquire  
Daniel J. Carrigan (Pro Hac Vice)  
McKenna Long & Aldridge LLP  
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Washington, DC 20006  
Phone: 202-496-7312  
Facsimile: 202-496-7094

Attorneys for Bethesda Softworks, LLC

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
(Richmond Division)

**In re:** \* **Chapter 11**

**CIRCUIT CITY STORES, INC., et al.** \* **Case No. 08-35653 (KRH)**

**Debtors.** \* **(Jointly Administered)**

\* \* \* \* \*

**RESPONSE TO MOTION OF DEBTORS FOR ORDER UNDER SECTIONS 105(a), 362,  
503(b), 507(a), 546(c), AND 546(h) (I) GRANTING ADMINISTRATIVE EXPENSE  
STATUS TO OBLIGATIONS FROM POSTPETITION DELIVERY OF GOODS; (II)  
AUTHORIZING PAYMENT OF EXPENSES IN THE ORDINARY COURSE OF  
BUSINESS; (III) AUTHORIZING DEBTORS TO RETURN GOODS; AND (IV)  
ESTABLISHING PROCEDURES FOR RECLAMATION DEMANDS ("DKT NO. 14"),  
INTERIM ORDER WITH RESPECT THERETO (DKT. NO. 133),  
AND RELATED MOTIONS/ORDERS (E.G., DKT. NOS. 19, 23, 78 and 107)**

Bethesda Softworks, LLC ("Bethesda Softworks" or "Claimant") hereby responds to Debtors' Motion, Dkt. No. 14 (the "Reclamation Motion") and Interim Order with respect thereto (Dkt. No. 133), and related Motions and Orders (including Dkt. Nos. 19, 23, 78 and 107, collectively, the "Related Motions"), and in support thereof respectfully states as follows:

**BACKGROUND**

1. The Debtors and/or certain of their subsidiaries, affiliates and/or agents (and, in particular, Circuit City Stores, Inc.) (the "Debtors") received computer and console video games

(the "Goods") described in and pursuant to the terms of a certain Master Dealer Agreement and Product Addendum and/or certain Purchase Orders (the "Purchase Orders") from Bethesda Softworks. The Debtors received all of such Goods within the last 45 days before the Petition Date. The total purchase price of such Goods was \$3,848,875.72. Most of such Goods were received within 20 days before the Petition Date. The total purchase price of these Goods was \$3,838,606.40.

2. On November 10, 2008, prior to entry and service of this Court's Interim Order (Dkt. No. 133), a reclamation notice/demand (the "Notice") was delivered, via confirmed electronic mail to Mr. Tim Sifford, the Debtors' Business Team Lead Games, and via confirmed facsimile to Reginald D. Hedgebeth, Esq., the Debtors' SVP, General Counsel and Secretary, and Sarah K. Baker, Esq., Skadden, Arps, Slate, Meagher & Flom, one of the Debtors' counsel. True and correct copies of this Notice, with facsimile confirmations, are attached hereto and incorporated herein as Exhibit A. Upon information and belief, reports provided to Bethesda Softworks on a weekly basis by the Debtors in the ordinary course of business, should contain sufficient information to identify the Goods that were in the Debtors' possession on/about the Petition Date. No part of the purchase price for any of the Goods has been paid to Bethesda Softworks; except as set forth in the Reclamation Motion, the Debtors have not advised Bethesda Softworks whether, when or where the Goods retained by the Debtors would be returned.

### DISCUSSION

3. With respect to Paragraphs 2 - 3 of this Court's Interim Order (Dkt. No. 133) (the "Interim Order"): the Debtors should be required - and not merely authorized - to pay obligations arising from the post-petition shipment or delivery of goods by creditors/vendors ("Vendors") to the Debtors, unless the Debtors and a Vendor agree otherwise.

4. With respect to Paragraph 4 of the Interim Order: although certain of the provisions of Bankruptcy Code Section 546(h) governing the Debtors' return of goods to a Vendor are recited or paraphrased, there is no explicit reference to the Bankruptcy Code Section 546(h) requirement with respect to the consent of such Vendor; Paragraph 4 of the Interim Order should be clarified to make clear that any returns to a Vendor contemplated under Bankruptcy Code Section 546(h) at all times remain subject to the consent of the Vendor. In addition, the Paragraph 4 authorization to return Goods to a Vendor is not limited to the 120 day period after the Petition Date - or any other period - but should be.

5. With respect to Paragraph 5 of the Interim Order: the Interim Order was entered on November 13, 2008; Paragraph 5, subparagraphs (a) and (b) impose requirements for service, and for statements with respect to Bankruptcy Code Section 503(b)(9) Claims which are not provided for under Bankruptcy Code Section 546(c) and were apparently proposed by the Debtors to avoid inadvertent duplicate payments by the Debtors of reclamation and Section 503(b)(9) claims. Such additional administrative requirements, however, should not govern the validity or effective date of a reclamation notice/demand, especially as to those Vendors, like Bethesda Softworks, which submitted reclamation notices/demands prior to entry and notice of the Interim Order on November 13, 2008, respectively. Moreover, all otherwise timely reclamation demands should be effective upon the Petition Date with respect to goods in the Debtors' possession on that date.

6. With respect to Paragraph 5, subparagraphs (c) and (d) of the Interim Order: (a) Viewed in a light most favorable to reclamation claimants, these subparagraphs seem to suggest a process under which the Debtors will have 120 days to complete their evaluation of each reclamation claim, after which the agreed upon amount will be satisfied in cash or by the return

of the goods sought to have been reclaimed as much as 4 months earlier. Return of goods subject to a reclamation demand up to 4 months after the demand is made, lacks the immediacy contemplated by the reclamation remedy, particularly when the 4 month period encompasses the “peak” pre and post holiday selling seasons.

(b) These two subparagraphs articulate no criteria pursuant to which the Debtors will determine, or agree upon, the allowed amount of a reclamation claim. They require no disclosure of the bases for the Debtors’ allowance or disallowance of, or agreement upon, a claim. In addition, they include no provisions for Court or other review of the Debtors’ determinations or agreements or for the disclosure of such determinations or agreements to other Vendors. Bethesda Softworks submits that lack of transparency and the amount of discretion afforded the Debtors could result in similarly situated reclamation claimants being treated differently based upon the extent to which their goods are, for example, deemed critical to the Debtors’ sales. This outcome is antithetical to the reclamation process.

(c) Paragraph 5, subparagraph (d), as well as Paragraph 4 of the Interim Order, reference “the prior rights of holders of security interests in such goods” (subject to reclamation demands), and “the prior rights of holders of security interests in such Goods or the proceeds of such Goods under the Debtors’ proposed debtor in possession financing agreements and prepetition financing agreements,” respectively. These references, as well as the Debtors’ Motion, suggest that, even if the allowed amount of a reclamation claim is determined, or agreed upon, through the process outlined in the Interim Order, such allowed or agreed upon claim remains subject to certain defenses which would be applicable to all reclamation claims, including the defenses that there is a floating inventory lien that defeats reclamation claims (renders them “valueless”) and/or that the Debtors were solvent during the 45 day period before

the Petition Date. The proposed 120 (or more) day resolution process serves no purpose other than delay, if it culminates in the assertion of either or both of these defenses. In addition, if either or both of these defenses (and/or other defenses reserved by the Debtors) can be selectively raised, otherwise similarly situated reclamation claimants can receive different treatment without disclosure or Court review.

7. With respect to Paragraph 6 of the Interim Order: Notwithstanding the "not intended to prohibit, hinder, or delay" text of this Paragraph, the Motion argues, among other things, that the Debtors anticipate the receipt of numerous reclamation demands, and that absent the reclamation procedures outlined in the Interim Order, the Debtors would be required to spend substantial time and limited resources contesting or litigating reclamation demands, thereby unnecessarily distracting the Debtors and their professionals from the reorganization process. The Motion apparently contemplates a 120 period during which the Debtors will not have to engage in any litigation with respect to reclamation claims, apparently based, in part, on the premise that all such litigation is subject to the automatic stay. At the same time, the Motion indicates that the Debtors are reserving all of their defenses to reclamation claims and that the Debtors consider all reclamation claims as general, non-priority unsecured claims, assuming the validity and enforceability of prepetition inventory liens. If the 120 period is, effectively, a "standstill period" for reclamation claims, potential defenses to such claims related to the passage of time and/or the delay contemplated by the Motion (e.g., not seeking relief from the stay, not instituting an adversary proceeding for injunctive relief, sale or commingling of goods after receipt of reclamation notice/demand, inability to trace, etc.) should be foreclosed. Any other result constitutes an inequitable shifting of burdens as to the reclamation claimants.

8. Claimant joins in any other objections and responses to the Motion consistent herewith. Claimant further reserves its rights to amend and supplement this response at or prior to the hearing scheduled for December 5, 2008.

WHEREFORE, Claimant respectfully requests that the Court enter an order that is consistent with the concerns raised herein, and grants Claimant such additional and further relief as the Court may deem just and proper.

Dated: November 26, 2008

/s/ John G. McJunkin

John G. McJunkin, (VSB No. 31011)  
J. David Folds, (VSB No. 44068)  
Daniel J. Carrigan, (PRO HAC VICE)  
MCKENNA LONG & ALDRIDGE LLP  
1900 K Street, NW  
Washington, DC 20006-1108  
Telephone: (202) 496-7312  
Facsimile: (202) 496-7094

Counsel for Bethesda Softworks, LLC

**CERTIFICATE OF SERVICE**

I hereby certify on November 26, 2008, a true and correct copy of the foregoing Response was served by electronic means on the "2002" and "Core" lists through the ECF system, and by facsimile upon:

Kirkland & Ellis LLP  
200 East Randolph Drive  
Chicago, IL 60601  
Attn: Linda K. Myers, Esq.  
Fax: 312-861-2200

Skadden Arps Slate Meagher & Flom, LLP  
One Rodney Square  
Wilmington, DE 19889  
Attn: Gregg Galardi, Esq.  
Fax: 888-329-3792

and

Attn: Chris L. Dickerson, Esq.  
Fax: 312-407-8680

McGuireWoods LLP  
One James Center  
901 East Cary Street 40  
Richmond, VA 23219  
Attn: Dion W. Hayes, Esq.  
Fax: 804-698-2078

and

Douglas M. Foley, Esq.  
Fax: 757-640-3957

Riener & Braunstein LLP  
Three Center Plaza  
Boston, MA 02108  
Attn: David S. Berman, Esq.  
Fax: 617-880-3456

LeClair Ryan  
Riverfront Plaza  
East Tower  
951 East Byrd Street  
Eighth Floor  
Richmond, VA 23219  
Attn: Bruce Matson, Esq.  
Fax: 804-783-7269

Office of the U.S. Trustee  
701 East Broad Street  
Suite 4304  
Richmond, VA 23219  
Attn: Robert B. Van Arsdale  
Fax: 804-771-2330

Tavenner & Beran, PLC  
20 North Eighth Street  
Second Floor  
Richmond, VA 23219  
Attn: Lynn L. Tavenner, Esq.  
Attn: Paula S. Beran, Esq.  
Fax: 804-783-0178

/s/ John G. McJunkin  
John G. McJunkin

**EXHIBIT A**

\* \* \* Communication Result Report ( Nov. 10. 2008 8:56PM ) \* \* \*

13  
23

Time: Nov. 10, 2008 8:53PM

Mode	Destination	Pg(s)	Result	Page Not Sent
9 Memory TX	918045274164***42995	P. 4	OK	

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1370 PICCARD DRIVE  
SUITE 120  
ROCKVILLE, MARYLAND 20850 USA  
TELE: 301 946 2200 / FAX: 301 990 7925

\* \* \* Communication Result Report ( Nov. 10. 2008 8:54PM ) \* \* \*

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Time: Nov. 10, 2008 8:39PM

Mode	Destination	Pg(s)	Result	Page Not Sent
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Reason for error  
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E.3) No answer  
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**FACSIMILE TRANSMISSION SERVICE**

779  
Jeff Gifford, Business Team Lead Counsel  
J. Collins Lederer, Summary, Richards Lederer LLC  
& RHTV Legal, Zander Media Inc.  
  
CONFIDENTIAL  
Chest City Seven, Inc. DATE: 11/10/2006  
FAX NUMBER: 707.541.3600  
804.527.4854  
107-101-301 OF 1000 EXCLUDED COPIES  
4  
  
RECORDED  
Regional D. Hodgebotham, Esq.  
877, General Counsel & Secretary  
Chest City Seven, Inc.  
Fax: 804.527.4850 or 804.527.4164 /  
Sarah K. Baker, Esq.  
Shulman, Anger, Baker, Margolis & Flax, LLP  
(Chicago, IL)  
Fax: 312.487.0411  
  
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Альбоме «Советской Физической культуры и Практики»

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JOURNAL OF CLIMATE

**1370 PICCARD DRIVE  
SUITE 120  
ROCKVILLE, MARYLAND 20850 USA  
TELE: 301/884 2700 (FAX: 301/884 2702)**



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FACSIMILE TRANSMITTAL SHEET

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TO:	FROM:
Tim Sifford, Business Team Lead Games	J. Griffin Lesser, Secretary, Bethesda Softworks LLC & EVP-Legal, ZeniMax Media Inc.
COMPANY:	DATE:
Circuit City Stores, Inc.	11/10/2008
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER:
804.527.4164	4
CC:	SENDER'S REFERENCE NUMBER:
Reginald D. Hedgebeth, Esq. SVP, General Counsel & Secretary Circuit City Stores, Inc. fax: 804.418.8248 & 804.527.4164 / Sarah K. Baker, Esq. Skadden, Arps, Slate, Meagher & Flom LLP (Chicago, IL) fax: 312.407.0411	
RE:	YOUR REFERENCE NUMBER:
Reclamation Demand of Bethesda Softworks LLC	

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URGENT    FOR REVIEW    PLEASE COMMENT    PLEASE REPLY    PLEASE RECYCLE

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NOTES/COMMENTS:



November 10, 2008

Via Fax  
804.524.4000

Tim Sifford  
Business Team Lead Games  
Circuit City Stores, Inc.  
Deep Run 1 – 2<sup>nd</sup> Floor  
9950 Mayland Drive  
Richmond, VA 23233

Re: Reclamation Demand of Bethesda Softworks LLC, Its Parent, Subsidiaries, Affiliates and/or Agents (collectively, "Bethesda Softworks" or "Seller")

Dear Mr. Sifford:

Circuit City Stores, Inc., its subsidiaries, affiliates and/or agents (collectively, the "Debtor") has received computer and console video games (the "Goods") described in and pursuant to the terms of a certain Master Dealer Agreement and Product Addendum thereto dated October 25, 2006 (the "Agreement") and/or the Purchase Orders listed on Exhibit A attached hereto (the "Purchase Orders") from Bethesda Softworks.

The Debtor received the Goods shipped by the Seller within the last 45 days prior to November 10, 2008 (the "Reclamation Period.") The value of the Goods is \$3,848,875.72, and no part of the purchase price for any of the Goods has been paid to the Seller.

Seller asserts that the Goods were sold to Debtor on credit in the ordinary course of business under the terms of the Agreement and/or the Purchase Orders and received by the Debtor while it was insolvent, which insolvency is evidenced, in whole or in part, by the Debtor's filing of a petition for relief under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* (the "Bankruptcy Code") on November 10, 2008 (the "Petition Date").

Seller hereby makes reclamation demand upon the Debtor pursuant to Section 546(c) of the Bankruptcy Code, Section 2-702 of the Uniform Commercial Code and/or other applicable state law, for the immediate return of the Goods. Further, Seller demands that the Debtor segregate and refrain from using, commingling or otherwise converting the Goods in the course of the Debtor's business or otherwise. In addition, Seller requests adequate protection of its interests in the Goods and objects to any use of cash collateral which may be generated from the use, sale, or other disposition of the Goods.

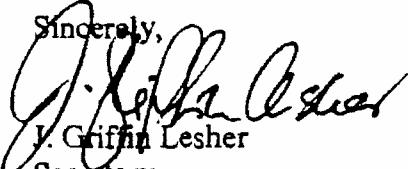
Please confirm whether the Debtor will honor this reclamation demand and advise when and where the Seller may arrange for the immediate return of the Goods.

Nothing in this letter shall be a waiver of, or otherwise prejudice, any rights, remedies and interests of Seller, whether under the Agreement and/or the Purchase Orders or otherwise, including but not limited to Seller's right to an allowed administrative claim under Section



503(b)(9) of the Bankruptcy Code for all Goods or other product received by the Debtor from Seller within twenty (20) days before the Petition Date. Seller reserves the right to amend and supplement this Reclamation Demand to include any Goods that remained, or may remain, in transit prior to transmission of this Demand, and that were, or are, received subsequent thereto.

If you have any questions, please contact me at 301.963.2000 (x.254) or [glesher@zenimax.com](mailto:glesher@zenimax.com).

Sincerely,  
  
V. Griffin Lesher  
Secretary

Attachment: Exhibit A

cc: Reginald D. Hedgebeth, Esq.  
SVP, General Counsel & Secretary  
Circuit City Stores, Inc. (Richmond, VA)  
fax: 804.524.4000  
Sarah K. Baker, Esq.  
Skadden, Arps, Slate, Meagher & Flom LLP (Chicago, IL)  
fax: 312.407.0411

Exhibit A

to

Reclamation Demand of Bethesda Softworks LLC, Its Parent, Subsidiaries, Affiliates and/or Agents

Circuit City Purchase Order Number	Product	Platform	Ship Date	Inventory or Store ID	No. of Units	Per Unit Value	Total Value
6772368	AMF Pinbusters!	Wii	29-Oct-08	12650	168	\$15.27	\$2,565.36
6772368	Oblivion Greatest Hits	PS3	29-Oct-08	12060	408	\$23.64	\$9,645.12
6772368	Oblivion Game of the Year	PS3	29-Oct-08	12610	120	\$48.27	\$5,792.40
6772368	Star Trek Encounters	PS2	29-Oct-08	12050	156	\$6.40	\$998.40
2170802	Fallout 3 Collector's Edition	PC	23-Oct-08	93155128606	632	\$55.16	\$34,861.12
2170801	Fallout 3 Collector's Edition	PC	23-Oct-08	93155128606	528	\$55.16	\$29,124.48
2170800	Fallout 3 Collector's Edition	PC	23-Oct-08	93155128606	520	\$55.16	\$28,683.20
2170797	Fallout 3 Collector's Edition	PC	23-Oct-08	93155128606	988	\$55.16	\$54,498.08
6623924	Fallout 3	PS3	22-Oct-08	12670	24,000	\$48.27	\$1,158,480.00
6623924	Fallout 3 Collector's Edition	PS3	22-Oct-08	12840	3,000	\$63.04	\$189,120.00
6623924	Fallout 3	X360	22-Oct-08	12680	35,040	\$48.27	\$1,691,380.80
6623924	Fallout 3 Collector's Edition	X360	22-Oct-08	12850	4,008	\$63.04	\$252,664.32
2170790	Fallout 3	PC	21-Oct-08	93155126909	2,400	\$39.40	\$94,560.00
2170792	Fallout 3	PC	21-Oct-08	93155126909	730	\$39.40	\$28,762.00
2170793	Fallout 3	PC	21-Oct-08	93155126909	1,270	\$39.40	\$50,038.00
2170794	Fallout 3	PC	21-Oct-08	93155126909	1,280	\$39.40	\$50,432.00
2170795	Fallout 3	PC	21-Oct-08	93155126909	1,530	\$39.40	\$60,282.00
2170796	Fallout 3	PC	21-Oct-08	93155126909	1,290	\$39.40	\$50,826.00
2170798	Fallout 3 Collector's Edition	PC	21-Oct-08	93155128606	300	\$55.16	\$16,548.00
2170804	Fallout 3 Collector's Edition	PC	21-Oct-08	93155128606	532	\$55.16	\$29,245.12
6748763	AMF Pinbusters!	Wii	9-Oct-08	12650	276	\$15.27	\$4,214.52
6748763	Oblivion Game of the Year	PS3	9-Oct-08	12610	120	\$48.27	\$5,792.40
6620842	Star Trek Encounters	PS2	6-Oct-08	12050	41	\$6.40	\$262.40
<b>TOTAL:</b>							
<b>Subtotal Fallout 3:</b>							
<b>Subtotal Other Product:</b>							
					79,337		\$3,848,875.72
					78,048		\$3,819,605.12
					1,289		\$29,270.60

\* \* \* Communication Result Report (Nov. 10. 2008 9:10PM) \* \* \*

11  
21

Time: Nov. 10. 2008 8:51PM

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FACSIMILE TRANSMITTAL SHEET	
TO:	J. Griffith Lester, Secretary, Bethesda Exhibits LLC & BPP Legal, Zenimax Media Inc.
FROM:	
DATE:	11/10/2008
TIME:	10:41:00 AM
FILE NUMBER:	104-111246 & 104-327-0004
NUMBER OF PAGES ENCLOSING COPY:	4
RECIPIENT INFORMATION SOURCE	
→ Joseph D. Margulies, Esq. SVP, General Counsel & Secretary Civic City Stores, Inc. 104-111246 & 104-327-0004 / Sarah K. Baker, Esq. Brodsky, Agro, Hess, Margulies & Pines LLP (Chicago, IL) Fax 773-407-0481	
TO: RECIPIENT NUMBER Josephine DiPietro of Bethesda Exhibits LLC	

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WILLIAMSON, LEHRER & CO., LLP

\* \* \* Communication Result Report (Nov. 10. 2008 8:59PM) \* \* \*

23

Time: Nov. 10. 2008 8:57PM

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**ZeniMax<sup>TM</sup>**  
MEDIA INC.

FACSIMILE TRANSMISSION REPORT	
TO:	Tom Miller, Business Team Lead Counsel J. Griffith Lawley, Scanning, Production, Arbitrators LLC & RCPA Legal, Zenithon Media Inc.
FROM:	
DATE:	11/10/2008
TIME:	10:56 AM (EST) 10:56 AM (EST) INCLUDING COVER
REF ID:	6
RECIPIENT INFORMATION	
→ Michael D. Hargrave, Esq. EVP, General Counsel & Secretary Cloud City Boxes, Inc. Fax 301-493-0000 & 301-527-4164 / Email: M.D.Hargrave@CloudCityBoxes.com Shadwell, Agresti, Shadwell, Margolis & Flores LLP (Chicago, IL) Fax 312-407-0481	
RE:	
Rutherford Diamond of Bethesda Arbitrators LLC	

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ROCKVILLE, MARYLAND 20850 USA  
TEL: 301 948 2200 / FAX: 301 999 7923

\* \* \* Communication Result Report (Nov. 10. 2008 8:49PM) \* \* \*

1)  
2)

Time: Nov. 10. 2008 8:41PM

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**ZeniMax**  
MEDIA INC.

FACSIMILE TRANSMISSION REPORT	
TO: The McLeod, Business Team-Law Group	FROM: J. Gattis, Lawyer, ZeniMax Media Inc. & ZYVI-Legal, ZeniMax Media Inc.
COMPANY: Circuit City Stores, Inc.	DATE: 11/10/2008
FROM NUMBER: 804.227.0464	TYPE/NAME OF IMAGE RECEIVED: COPR
RECEIVED BY: → John M.D. Hodgeback, Esq. 997, Circuit Counsel & Strategy Circuit City Stores, Inc. 1000 19th Street, N.W. Suite 1000, Washington, D.C. 20006, United States Telephone: (202) 467-4900 Facsimile: (202) 467-4901	
TO: Information Division of ZeniMax Media LLC	

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Information Division



**FACSIMILE TRANSMITTAL SHEET**

**TO:** Tim Sifford, Business Team Lead Games  
**FROM:** J. Griffin Lesser, Secretary, Bethesda Softworks LLC  
& EVP-Legal, ZeniMax Media Inc.

**COMPANY:** Circuit City Stores, Inc. **DATE:** 11/10/2008

**FAX NUMBER:** 804.527.4164 **TOTAL NO. OF PAGES INCLUDING COVER:** 4

**CC:** **SENDER'S REFERENCE NUMBER:**

Reginald D. Hedgebeth, Esq.  
SVP, General Counsel & Secretary

Circuit City Stores, Inc.

fax: 804.418.8248 & 804.527.4164 /

Sarah K. Baker, Esq.

Skadden, Arps, Slate, Meagher & Flom LLP  
(Chicago, IL)

fax: 312.407.0411

**RE:** Reclamation Demand of Bethesda Softworks LLC **YOUR REFERENCE NUMBER:**

URGENT  FOR REVIEW  PLEASE COMMENT  PLEASE REPLY  PLEASE RECYCLE

The information contained in this message and any attachments hereto is intended only for the addressee or addressee's authorized agent. These materials may contain information that is privileged, confidential, or otherwise exempt from disclosure. If the reader is not the intended recipient or recipient's authorized agent, then you are notified that any dissemination, distribution, or copying of these materials is prohibited. If you have received these materials in error, please notify the sender by telephone and return the original and any copies of these materials by mail to the sender at the address stated below. Opinions, conclusions and other information in this message that do not relate to the official business of this company shall be understood as neither given nor endorsed by it.

NOTES/COMMENTS:

1370 PICCARD DRIVE  
SUITE 120  
ROCKVILLE, MARYLAND 20850 USA  
TELE: 301 948 2200 / FAX: 301 990 7025



November 10, 2008

Via Fax  
804.524.4000

Tim Sifford  
Business Team Lead Games  
Circuit City Stores, Inc.  
Deep Run 1 – 2<sup>nd</sup> Floor  
9950 Mayland Drive  
Richmond, VA 23233

Re: Reclamation Demand of Bethesda Softworks LLC, Its Parent, Subsidiaries, Affiliates and/or Agents (collectively, "Bethesda Softworks" or "Seller")

Dear Mr. Sifford:

Circuit City Stores, Inc., its subsidiaries, affiliates and/or agents (collectively, the "Debtor") has received computer and console video games (the "Goods") described in and pursuant to the terms of a certain Master Dealer Agreement and Product Addendum thereto dated October 25, 2006 (the "Agreement") and/or the Purchase Orders listed on Exhibit A attached hereto (the "Purchase Orders") from Bethesda Softworks.

The Debtor received the Goods shipped by the Seller within the last 45 days prior to November 10, 2008 (the "Reclamation Period.") The value of the Goods is \$3,848,875.72, and no part of the purchase price for any of the Goods has been paid to the Seller.

Seller asserts that the Goods were sold to Debtor on credit in the ordinary course of business under the terms of the Agreement and/or the Purchase Orders and received by the Debtor while it was insolvent, which insolvency is evidenced, in whole or in part, by the Debtor's filing of a petition for relief under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* (the "Bankruptcy Code") on November 10, 2008 (the "Petition Date").

Seller hereby makes reclamation demand upon the Debtor pursuant to Section 546(c) of the Bankruptcy Code, Section 2-702 of the Uniform Commercial Code and/or other applicable state law, for the immediate return of the Goods. Further, Seller demands that the Debtor segregate and refrain from using, commingling or otherwise converting the Goods in the course of the Debtor's business or otherwise. In addition, Seller requests adequate protection of its interests in the Goods and objects to any use of cash collateral which may be generated from the use, sale, or other disposition of the Goods.

Please confirm whether the Debtor will honor this reclamation demand and advise when and where the Seller may arrange for the immediate return of the Goods.

Nothing in this letter shall be a waiver of, or otherwise prejudice, any rights, remedies and interests of Seller, whether under the Agreement and/or the Purchase Orders or otherwise, including but not limited to Seller's right to an allowed administrative claim under Section



503(b)(9) of the Bankruptcy Code for all Goods or other product received by the Debtor from Seller within twenty (20) days before the Petition Date. Seller reserves the right to amend and supplement this Reclamation Demand to include any Goods that remained, or may remain, in transit prior to transmission of this Demand, and that were, or are, received subsequent thereto.

If you have any questions, please contact me at 301.963.2000 (x.254) or [glesher@zenimax.com](mailto:glesher@zenimax.com).

Sincerely,  
  
J. Griffin Lesher  
Secretary

Attachment: Exhibit A

cc: Reginald D. Hedgebeth, Esq.  
SVP, General Counsel & Secretary  
Circuit City Stores, Inc. (Richmond, VA)  
fax: 804.524.4000  
Sarah K. Baker, Esq.  
Skadden, Arps, Slate, Meagher & Flom LLP (Chicago, IL)  
fax: 312.407.0411

Exhibit A

Reclamation Demand of Bethesda Softworks LLC, Its Parent, Subsidiaries, Affiliates and/or Agents  
to

Circuit City Purchase Order Number	Product	Platform	Ship Date	Inventory or Store ID	No. of Units	Per Unit Value	Total Value
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6772368	Oblivion Greatest Hits	PS3	29-Oct-08	12060	408	\$23.64	\$9,645.12
6772368	Oblivion Game of the Year	PS3	29-Oct-08	12610	120	\$48.27	\$5,792.40
6772368	Star Trek Encounters	PS2	29-Oct-08	12050	156	\$6.40	\$998.40
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2170801	Fallout 3 Collector's Edition	PC	23-Oct-08	93155128606	528	\$55.16	\$29,124.48
2170800	Fallout 3 Collector's Edition	PC	23-Oct-08	93155128606	520	\$55.16	\$28,683.20
2170797	Fallout 3 Collector's Edition	PC	23-Oct-08	93155128606	988	\$55.16	\$54,498.08
6623924	Fallout 3	PS3	22-Oct-08	12670	24,000	\$48.27	\$1,158,480.00
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2170792	Fallout 3	PC	21-Oct-08	93155126909	730	\$39.40	\$28,762.00
2170793	Fallout 3	PC	21-Oct-08	93155126909	1,270	\$39.40	\$50,038.00
2170794	Fallout 3	PC	21-Oct-08	93155126909	1,280	\$39.40	\$50,432.00
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6620842	Star Trek Encounters	PS2	6-Oct-08	12050	41	\$6.40	\$262.40
TOTAL:					79,337		\$3,848,875.72
Subtotal Fallout 3:					78,048		\$3,819,605.12
Subtotal Other Product:					1,289		\$29,270.60

\* \* \* Communication Result Report (Nov. 10, 2008 8:14PM) \* \* \*

10  
20

Time: Nov. 10, 2008 8:12PM

Mode	Destination	Pg (s)	Result	Page Not Sent
Memory TX	913124070411***42995	P. 4	OK	

Reason for error  
E. 1) Hang up or line fail  
E. 3) No answer  
E. 5) Exceeded max. E-mail size  
E. 2) Busy  
E. 4) No facsimile connection

**ZenMax<sup>TM</sup>**  
MEDIA INC.

FACSIMILE TRANSMISSION SHEET

TO: The Sillman, Business Team, Ltd. Group	FROM: J. Coffin Ladd, Recovery, Richards Schlesinger LLC RE: 8477-Leg, ZenMax Media Inc.
OPTIONAL Circuit City Stores, Inc.	DATE: 11/10/2008
FAX NUMBER: 804.524.4220	TYPE OR NO. OF PAGE(S) ENCLOSED: OFFICE
CC: Kingsford D. Flanagan, Esq. SVP, General Counsel & Secretary Circuit City Stores, Inc. Fax: 804.524.4220 / Kings K. Baker, Esq. Shulkin, Arp, Sien, Meagher & Price LLP (Chicago, IL) Fax: 312.497.0411	OPTIONAL INFORMATION: REASON
RE: Richards, Coffin & Richards Schlesinger LLC	OPTIONAL INFORMATION: SUBJECT

URGENT  FOR REFERENCE  PLEASE COMMENT  PLEASE REPLY  PLEASE RECYCLE

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ATTACHMENTS

1375 PICCARD DRIVE  
SUITE 120  
ROCKVILLE, MARYLAND 20850 USA  
TELE: 301 948 2200 / FAX: 301 990 7025



**FACSIMILE TRANSMITTAL SHEET**

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Tim Sifford, Business Team Lead Games  
**FROM:**  
J. Griffin Lesser, Secretary, Bethesda Softworks LLC  
& EVP-Legal, ZeniMax Media Inc.

**COMPANY:**  
Circuit City Stores, Inc.  
**DATE:**  
11/10/2008

**FAX NUMBER:**  
804.524.4000  
**TOTAL NO. OF PAGES INCLUDING COVER:**  
4

**CC:**  
Reginald D. Hedgebeth, Esq.  
SVP, General Counsel & Secretary  
Circuit City Stores, Inc.  
Fax: 804.524.4000 /

**SENDER'S REFERENCE NUMBER:**

→ Sarah K. Baker, Esq.  
Skadden, Arps, Slate, Meagher & Flom LLP  
(Chicago, IL)  
Fax: 312.407.0411

**RE:**  
Reclamation Demand of Bethesda Softworks  
LLC  
**YOUR REFERENCE NUMBER:**

**X URGENT**  **FOR REVIEW**  **PLEASE COMMENT**  **PLEASE REPLY**  **PLEASE RECYCLE**

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NOTES/COMMENTS:



November 10, 2008

Via Fax  
804.524.4000

Tim Sifford  
Business Team Lead Games  
Circuit City Stores, Inc.  
Deep Run 1 – 2<sup>nd</sup> Floor  
9950 Mayland Drive  
Richmond, VA 23233

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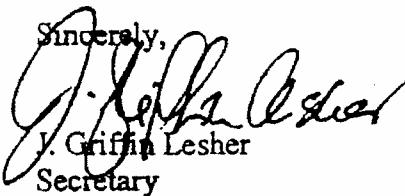
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If you have any questions, please contact me at 301.963.2000 (x.254) or [gleshers@zenimax.com](mailto:gleshers@zenimax.com).

Sincerely,  
  
J. Griffin Lesher  
Secretary

Attachment: Exhibit A

cc: Reginald D. Hedgebeth, Esq.  
SVP, General Counsel & Secretary  
Circuit City Stores, Inc. (Richmond, VA)  
fax: 804.524.4000  
Sarah K. Baker, Esq.  
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to

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					78,048		\$3,819,605.12
					1,289		\$29,270.60

**Carrigan, Daniel**

---

**From:** Grif Lesser [glesher@zenimax.com]  
**Sent:** Monday, November 10, 2008 8:49 PM  
**To:** Tim\_Sifford@circuitcity.com  
**Cc:** Ronald Seger  
**Subject:** Bethesda Softworks - Reclamation Demand  
**Attachments:** Bethesda\_Softworks\_Demand\_Letter\_10-nov-08.pdf

Dear Mr. Sifford:

Please find attached the Reclamation Demand of Bethesda Softworks LLC, its parent, subsidiaries, affiliates and/or agents in connection with today's bankruptcy filing by Circuit City and court hearing.

Regards,  
J. Griffin Lesser  
Secretary  
Bethesda Softworks LLC  
and  
EVP-Legal  
ZeniMax Media Inc.



November 10, 2008

Via Fax  
804.524.4000

Tim Sifford  
Business Team Lead Games  
Circuit City Stores, Inc.  
Deep Run 1 – 2<sup>nd</sup> Floor  
9950 Mayland Drive  
Richmond, VA 23233

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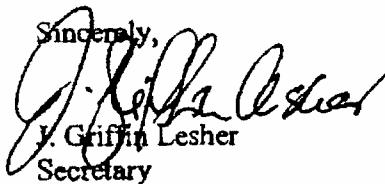
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If you have any questions, please contact me at 301.963.2000 (x.254) or [glesher@zenimax.com](mailto:glesher@zenimax.com).

Sincerely,

A handwritten signature in black ink, appearing to read "J. Griffin Lesher".

J. Griffin Lesher  
Secretary

Attachment: Exhibit A

cc: Reginald D. Hedgebeth, Esq.  
SVP, General Counsel & Secretary  
Circuit City Stores, Inc. (Richmond, VA)  
fax: 804.524.4000  
Sarah K. Baker, Esq.  
Skadden, Arps, Slate, Meagher & Flom LLP (Chicago, IL)  
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